

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5545 of 1983

Date of decision: 29-08-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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G S R T C

Versus

NARANBHARATI D GOSWAMI  
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Appearance:

MR S.M. Mazgaonkar for Petitioner  
MR PS CHARI for Respondent No. 1  
MR Mukesh Patel for Respondent No. 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/08/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner Corporation, after passing the order of dismissal of respondent workman on the alleged misconduct, after holding departmental inquiry, moved application before respondent No.2 under section 33(2) of

the Industrial Disputes Act, 1947 for approval of the dismissal of respondent No.1 from services. Respondent No.2 under his order, impugned in this special civil application, rejected this application.

2. The only contention raised by the learned counsel for the petitioner is that the dismissal of respondent workman was made after holding full-fledged departmental inquiry in which principles of natural justice were followed, but respondent No.2, without pointing out any illegality in the inquiry or breach of principles of natural justice, and without passing speaking order, declined to grant approval to the dismissal of respondent No.1 workman from service. No reason whatsoever has been given by respondent No.2 in the impugned order as to how the principles of natural justice have not been followed by the petitioner in the present case while holding inquiry which has culminated in the dismissal of respondent No.1 from service.

2. I find sufficient merits in the contention of the learned counsel for the petitioner. Respondent No.2 has committed serious error in not making a speaking order. There may be defects in the departmental inquiry made by the petitioner against respondent No.1 or the principles of natural justice may have been violated in making the inquiry. But merely by saying that principles of natural justice have not been followed, it cannot be said that the inquiry is vitiated. It is a case where the petitioner has gone with the application under section 33(2) of the Industrial Disputes Act, 1947. Respondent No.2 should have given out in the order the defects in the inquiry, instead of making one line observation. Thus the order of respondent No.2 cannot be allowed to stand as it is a non-speaking order.

3. In the result this special civil application succeeds and the same is allowed. The order of respondent No.2 - Conciliation Officer, Adipur -Kutch, dated 4-8-1983 is quashed and set aside. However respondent No.2 is directed to pass fresh order in accordance with law after affording an opportunity of hearing to both the parties within a period of two months from the date of receipt of certified copy of this order. Rule made absolute in the aforesaid terms. No order as to costs.

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